

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Case No. 1:19-cr-227
(LJV)

Plaintiff,

v.

February 20, 2024

JOSEPH BONGIOVANNI,

Defendant.

TRANSCRIPT EXCERPT - EXAMINATION OF T.F.O. ROBERT COTTRELL
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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And

**UNITED STATES DEPARTMENT OF JUSTICE
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PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

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2 | COURT DEPUTY CLERK: COLLEEN M. DEMMA

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* * * *

9 (Excerpt commenced at 11:42 a.m.)

10 (Jury is present.)

11 **THE COURT:** And the government can call its next
12 witness.

13 **MR. COOPER:** Thank you, Judge, the government calls
14 Detective Robert Cottrell.

16 **R O B E R T C O T T E R E L L**, having been duly called and
17 sworn, testified as follows:

DIRECT EXAMINATION BY MR. COOPER:

20 Q. Good morning.

21 A. Good morning.

22 Q. Would you please introduce yourself to the jury?

23 A. Bob Cottrell. I'm a --

24 Q. Where did you grow up?

25 A. Auburn, New York.

11:44AM 1 Q. Can you tell the jury about your education?

11:44AM 2 A. I graduated from Oswego College with a bachelor's in
11:44AM 3 public justice in 1980.

11:44AM 4 Q. And what sort of work did you do when you finished
11:44AM 5 school?

11:44AM 6 A. I started my career in Western New York as a corrections
11:44AM 7 officer for Erie County Correctional Facility out in Wende.

11:44AM 8 Q. How long were you there for?

11:44AM 9 A. About four and a half years.

11:44AM 10 Q. What did you do next?

11:44AM 11 A. I then took a civil service appointment as a police
11:44AM 12 officer for the Town of Amherst.

11:44AM 13 Q. What year did you take a civil service appointment as a
11:44AM 14 police --

11:44AM 15 A. January.

11:44AM 16 Q. -- officer?

11:44AM 17 A. January of 1987, I started with Amherst.

11:44AM 18 Q. Okay. And are you still working there?

11:44AM 19 A. I retired six years ago.

11:44AM 20 Q. So approximately how many years did you work as a Town of
11:44AM 21 Amherst Police Department --

11:44AM 22 A. 32 years.

11:44AM 23 Q. Can you describe for the jury your career progression in
11:45AM 24 the Amherst Police Department?

11:45AM 25 A. Started out as a patrol officer. Worked my way up to an

11:45AM 1 accident investigation officer. Got appointed to detective
11:45AM 2 in 2001. In early 2007 I was appointed to the narcotics
11:45AM 3 unit. And then about a year after that, I was appointed to
11:45AM 4 the Safe Streets Task Force, it's a federal task force that
11:45AM 5 the FBI runs, and I did that until the end of my career for
11:45AM 6 about ten years.

11:45AM 7 Q. I want to focus first about your time as a detective in
11:45AM 8 the narcotics unit.

11:45AM 9 Is there a difference between proactive and reactive
11:45AM 10 investigations as a detective?

11:45AM 11 A. There is. Proactive, we're looking ahead to try to stop
11:45AM 12 things, where reactive, you just answer the call and go from
11:45AM 13 there.

11:45AM 14 Q. Are narcotics investigations more one than the other?

11:45AM 15 A. They would be proactive.

11:45AM 16 Q. Why are narcotics investigations proactive?

11:45AM 17 A. Well, if it's reactive, they've already been arrested,
11:45AM 18 there's not much that we can do about something like that.

11:46AM 19 Q. What sorts of proactive investigation work do you do as a
11:46AM 20 narcotics detective?

11:46AM 21 A. A big part of it is we talk to individuals, especially
11:46AM 22 people who got jammed up in the criminal justice system.

11:46AM 23 Anybody who got arrested, we would talk to to see if they
11:46AM 24 have any information that could help out in any of our
11:46AM 25 investigations.

11:46AM 1 Q. Is that a large part of your work as a narcotics
11:46AM 2 detective?

11:46AM 3 A. It was, yes. Yes.

11:46AM 4 Q. Did you also participate in controlled buys?

11:46AM 5 A. We did.

11:46AM 6 Q. Did you execute search warrants?

11:46AM 7 A. I did.

11:46AM 8 Q. During your work as a narcotics detective with the
11:46AM 9 Amherst Police Department, did you collaborate with other
11:46AM 10 local state and federal law enforcement agencies?

11:46AM 11 A. Constantly.

11:46AM 12 Q. Are you familiar with a law enforcement tool called
11:46AM 13 SafetyNet?

11:46AM 14 A. I am.

11:46AM 15 Q. Can you describe for the jury how you would use SafetyNet
11:46AM 16 as a detective?

11:46AM 17 A. If we developed information on an individual or an
11:46AM 18 organization, we -- and we thought we were going follow up on
11:46AM 19 that, we would submit that name into a program that was run
11:47AM 20 by the state, New York State Police. And that's was mostly
11:47AM 21 for deconfliction. We wouldn't want to be jumping on anybody
11:47AM 22 else's cases for safety purposes or stuff like that.

11:47AM 23 So any time we had a decent case that we wanted to follow
11:47AM 24 it up, we'd put that name into the SafetyNet system.

11:47AM 25 Q. And if you had a name in SafetyNet, and somebody else ran

11:47AM 1 that name or input that name, what would happen?

11:47AM 2 A. It would show that there's an organization that was
11:47AM 3 already investigating that person. And we would call that
11:47AM 4 organization to see what's up, and let them know that this is
11:47AM 5 the information that we have. If they had an ongoing
11:47AM 6 investigation, chances are we would just turn over what had
11:47AM 7 to them.

11:47AM 8 Q. Next I'd like to discuss with you your work on the Safe
11:47AM 9 Streets Task Force.

11:47AM 10 Can you describe what kind of work you did on the Safe
11:47AM 11 Streets Task Force?

11:47AM 12 A. It was a violent gang task force that we basically
11:47AM 13 targeted neighborhood-based gangs in Western New York. Most
11:47AM 14 of the work was in Buffalo itself though.

11:47AM 15 Q. When did you become a member?

11:48AM 16 A. Middle of 2007, I believe, for Safe Streets.

11:48AM 17 Q. And when you're a local police officer or police
11:48AM 18 detective, and you join a federal task force, do you have a
11:48AM 19 title?

11:48AM 20 A. They call us task force officers. We'd assist the agents
11:48AM 21 in their investigations.

11:48AM 22 Q. Did you work primarily with a partner or a specific
11:48AM 23 agent?

11:48AM 24 A. We would jump around, but early on I was hooked up a lot
11:48AM 25 with Agent Tom Herbst.

11:48AM 1 Q. Are you familiar with an individual named Peter Gerace?

11:48AM 2 A. I am.

11:48AM 3 Q. Did there come a time in 2009 when you participated in an
11:48AM 4 investigation into Peter Gerace?

11:48AM 5 A. I did.

11:48AM 6 Q. Were you present for a search that was conducted at the
11:48AM 7 Pharaoh's Gentlemen's Club on Halloween in 2009?

11:48AM 8 A. Yeah, I believe it was an if-come.

11:48AM 9 That was a federal probation case that we were assisting
11:48AM 10 on. We must have got information that they were going to try
11:49AM 11 to talk to Mr. Gerace to see if he had anything to do with
11:49AM 12 Pharaoh's Night Club.

11:49AM 13 And since it was a Halloween weekend, I don't believe I
11:49AM 14 was there early, unless we knew that he was there for sure,
11:49AM 15 and that we would conduct the interview and the search.

11:49AM 16 Q. Did you ultimately enter Pharaoh's on October 31st?

11:49AM 17 A. I did.

11:49AM 18 Q. Can you describe for the jury what you did when you
11:49AM 19 entered Pharaoh's that day?

11:49AM 20 A. As I recall, I think I just went right up to the office
11:49AM 21 where Tom Herbst was with Peter Gerace interviewing him
11:49AM 22 already.

11:49AM 23 Q. And since Tom was already interviewing Peter Gerace, what
11:49AM 24 did you do?

11:49AM 25 A. I sat down, listened to the interview, and noticed that

11:49AM 1 there was a Rolodex with names and telephone numbers on the
11:49AM 2 desk. So I was thumbing through that when Tom Herbst was
11:49AM 3 talking to Peter.

11:49AM 4 Q. Did anything catch your attention as you thumbed through
11:49AM 5 the Rolodex on the desk?

11:49AM 6 A. We were hoping to get some names of an investigation that
11:49AM 7 we were interested in. We really didn't see anything there,
11:49AM 8 but I did notice quite a few law enforcement business cards.

11:50AM 9 Q. Do you remember approximately how many law enforcement
11:50AM 10 business cards you saw?

11:50AM 11 A. If I had to guess, it would be like a dozen or 15.

11:50AM 12 Q. After the search of Pharaoh's Gentlemen's Club, did you
11:50AM 13 attend a meeting with Special Agent Tom Herbst, Joseph
11:50AM 14 Bongiovanni, and Peter Gerace?

11:50AM 15 A. I did not.

11:50AM 16 Q. Did you learn about that meeting after it took place?

11:50AM 17 A. I'm sure I would have talked to Tom about that
11:50AM 18 afterwards, but I don't recall, because nothing came out of
11:50AM 19 it as far as I know.

11:50AM 20 Q. I want to fast forward now to 2013, okay?

11:50AM 21 A. Um-hum.

11:50AM 22 Q. In 2013, did you become aware of an individual by the
11:50AM 23 name of R.K.?

11:50AM 24 A. I did.

11:50AM 25 Q. How did you become aware of that individual?

11:50AM 1 A. I was tasked to go along with another agent, Jason Beck.

11:50AM 2 He wanted to interview a person who had information, and I
11:51AM 3 don't recall what that information was at the time, but they
11:51AM 4 wanted another officer to go with him. So I tagged along.

11:51AM 5 Q. Did you ultimately go and conduct an interview of R.K.?

11:51AM 6 A. I did.

11:51AM 7 Q. Do you remember when that was?

11:51AM 8 A. It was in April of '13, I believe, 2013.

11:51AM 9 Q. Did R.K. provide information to you about specific
11:51AM 10 individuals?

11:51AM 11 A. He did.

11:51AM 12 Q. Who did he provide information about?

11:51AM 13 A. He gave two names that were associated with Amherst. One
11:51AM 14 was T.S., and the other one was Rob Serio.

11:51AM 15 Q. When you said those individuals were associated with
11:51AM 16 Amherst, what do you mean by that?

11:51AM 17 A. I believe they both resided in our town.

11:51AM 18 Q. Were those people who were kind of on your proverbial
11:51AM 19 radar before you heard the names?

11:51AM 20 A. I know T.S. was. And I can't say if Serio was before
11:51AM 21 that time or not.

11:51AM 22 Q. What sort of information was related from R.K. to you
11:52AM 23 regarding Serio?

11:52AM 24 **MR. MacKAY:** Objection. Calls for hearsay.

11:52AM 25 **MR. COOPER:** Generally the sort of information, not

11:52AM 1 the words he said, Judge.

11:52AM 2 **THE COURT:** No sustained.

11:52AM 3 **MR. COOPER:** Okay.

11:52AM 4 **BY MR. COOPER:**

11:52AM 5 Q. Based on the conversation that you had with R.K., did you
11:52AM 6 take further investigative action or police action?

11:52AM 7 A. I did.

11:52AM 8 Q. Okay. Did the information that R.K. provided to you
11:52AM 9 inform how you were going proceed next?

11:52AM 10 A. Yes.

11:52AM 11 Q. Okay. What information did R.K. provide to you?

11:52AM 12 A. It was drug information on those two individuals I
11:52AM 13 mentioned.

11:52AM 14 Q. When you say "drug information," what do you mean by
11:52AM 15 that?

11:52AM 16 A. It was dealing. Dealing a large amount of marijuana, I
11:52AM 17 believe it was.

11:52AM 18 Q. Okay. Based on that interview, did the FBI Safe Streets
11:52AM 19 Task Force decide to move forward investigating Serio and
11:52AM 20 T.S. for trafficking marijuana?

11:52AM 21 A. I would have forwarded that information both back to the
11:52AM 22 Safe Streets Task Force intel analyst, who would have been
11:52AM 23 Tom Camizzi. And I would have forwarded it to my boss who at
11:52AM 24 the time was Detective Lieutenant JoAnn DiNoto.

11:53AM 25 Q. When you say your boss, is JoAnn DiNoto employed by the

11:53AM 1 FBI, or by the Amherst Police Department?

11:53AM 2 A. She's employed by Amherst narcotics.

11:53AM 3 Q. Why did you send that information to the Amherst Police
11:53AM 4 Department?

11:53AM 5 A. It was relevant to our town. I wanted to see if we could
11:53AM 6 follow up on that.

11:53AM 7 Q. Did the Safe Streets Task Force pursue that investigation
11:53AM 8 into Serio on its own?

11:53AM 9 A. I am not sure if they did. I'm sure they would have
11:53AM 10 followed it up because it was good information, but I don't
11:53AM 11 know exactly what they did after that.

11:53AM 12 Q. Other than providing that information to Camizzi and to
11:53AM 13 JoAnn DiNoto, did the FBI Safe Streets Task Force pass R.K.
11:53AM 14 along to anyone else?

11:53AM 15 A. We did, ultimately did. Yes.

11:53AM 16 Q. Who did you pass R.K. along to?

11:53AM 17 A. The DEA.

11:53AM 18 Q. Do you remember who at the DEA?

11:53AM 19 A. Joe Bongiovanni.

11:54AM 20 Q. Did you ultimately have a discussion or discussions with
11:54AM 21 Bongiovanni regarding R.K.?

11:54AM 22 A. I can't recall if I did or not. But I know I would have
11:54AM 23 personally turned over the informant R.K. to Joe Bongiovanni.

11:54AM 24 Q. When you say "personally turned over," is that an
11:54AM 25 in-person meeting?

11:54AM 1 A. Yes.

11:54AM 2 Q. Do you recall that meeting?

11:54AM 3 A. I had to refer to my notes. I have a day book that I
11:54AM 4 refer to, and it was at Forest and Richmond, so that would
11:54AM 5 have been the Psych Center. So I would have dropped him off
11:54AM 6 there and turned him over to him, only because I had a couple
11:54AM 7 of dealings with R.K., and I wanted to him make him familiar
11:54AM 8 with the officer who was handling him, the agent.

11:54AM 9 Q. Okay. As you dropped him off as you described, would
11:54AM 10 Bongiovanni have been present for that meeting?

11:54AM 11 A. Yes, he would have.

11:54AM 12 Q. Okay. And did you develop an impression as to what
11:54AM 13 Bongiovanni was going to do with R.K.?

11:54AM 14 A. I -- I can't say yes. I assumed it was one of the
11:54AM 15 targets that he mentioned, T.S. or Serio, but I can't say in
11:55AM 16 that regard.

11:55AM 17 Q. Okay. Well, what was R.K.'s role going to be for
11:55AM 18 Bongiovanni, in your mind, when you turned him over?

11:55AM 19 **MR. MacKAY:** Objection, speculation.

11:55AM 20 **MR. COOPER:** I'm asking about his impression.

11:55AM 21 **THE COURT:** Overruled. Go ahead.

11:55AM 22 **THE WITNESS:** He had relevant information on a couple
11:55AM 23 of targets that I could have used, so --

11:55AM 24 **BY MR. COOPER:**

11:55AM 25 Q. Was the information about selling drugs?

11:55AM 1 A. Yes.

11:55AM 2 Q. Did you expect the DEA to pursue that investigation?

11:55AM 3 A. Absolutely.

11:55AM 4 Q. Okay.

11:55AM 5 **MR. COOPER:** Just one second, please.

11:55AM 6 I have no further questions, Judge.

11:55AM 7 **THE COURT:** Cross?

11:55AM 8 **MR. MacKAY:** Thank you, Your Honor.

11:55AM 9

11:55AM 10 **CROSS-EXAMINATION BY MR. MacKAY:**

11:55AM 11 Q. Good morning, Mr. Cottrell.

11:55AM 12 A. Good morning, Parker.

11:55AM 13 Q. How are you?

11:55AM 14 A. I'm doing fine, thank you.

11:55AM 15 Q. So you began your police career with Amherst police,
11:56AM 16 correct?

11:56AM 17 A. I'd like to say I started as an Erie County correctional
11:56AM 18 officer back in 1982. But the police, I started in 1987 with
11:56AM 19 Amherst, yes.

11:56AM 20 Q. Okay. And then eventually, you rise to the ranks to
11:56AM 21 become a detective, correct?

11:56AM 22 A. Correct.

11:56AM 23 Q. And you ultimately go over to do a detail with the FBI
11:56AM 24 with the Safe Streets Task Force, correct?

11:56AM 25 A. Yes.

11:56AM 1 Q. Okay. And in that capacity, you're what's known as a
11:56AM 2 task force officer, correct?

11:56AM 3 A. Correct.

11:56AM 4 Q. And I think you told us on direct that your job was to
11:56AM 5 assist agents, correct?

11:56AM 6 A. Yes.

11:56AM 7 Q. And by agents, you mean people who hold the singular role
11:56AM 8 of FBI agent, correct?

11:56AM 9 A. Yes.

11:56AM 10 Q. You, as a TFO, a task force officer, sort of hold dual
11:56AM 11 roles; is that fair to say?

11:56AM 12 A. I don't know what you're getting at, but --

11:56AM 13 Q. Well, I'm just trying to flush this out. Essentially
11:57AM 14 you're still an Amherst police detective --

11:57AM 15 A. Yep.

11:57AM 16 Q. -- at the time --

11:57AM 17 A. Yep.

11:57AM 18 Q. -- correct.

11:57AM 19 A. Assigned to -- assigned to the FBI and the Safe Streets
11:57AM 20 Task Force --

11:57AM 21 Q. Okay.

11:57AM 22 A. -- as a TFO.

11:57AM 23 Q. So you do, in some part, FBI duties, correct?

11:57AM 24 A. Yes.

11:57AM 25 Q. And then, in some part, Amherst police duties, correct?

11:57AM 1 A. Yes.

11:57AM 2 Q. But your paycheck is still coming from Amherst police,
11:57AM 3 correct?

11:57AM 4 A. Correct.

11:57AM 5 Q. But you still have to learn all of the FBI operating
11:57AM 6 procedure, correct?

11:57AM 7 A. I tried my left.

11:57AM 8 Q. Because you, as a TFO with the FBI, are going to be
11:57AM 9 required to document things that are going stay solely with
11:57AM 10 the FBI, correct?

11:57AM 11 A. Correct.

11:57AM 12 Q. But sometimes your job as a TFO is to create that linkage
11:57AM 13 between Amherst, the local agency, and the federal agency,
11:57AM 14 the FBI, right?

11:57AM 15 A. Okay.

11:57AM 16 Q. Well, you tell me; is that -- is that a fair statement?

11:57AM 17 A. Yes.

11:57AM 18 Q. And I think you kind of told us about a situation
11:57AM 19 already, you might take information from the local agency
11:57AM 20 like Amherst, and then bring it over to FBI, correct?

11:57AM 21 A. Correct.

11:57AM 22 Q. All right. So, let's go to the Safe Streets Task Force
11:58AM 23 work. I think you told us on direct, near the beginning of
11:58AM 24 your time there, your main partner is Special Agent Tom
11:58AM 25 Herbst, correct?

11:58AM 1 A. Yes, I could say that.

11:58AM 2 Q. Well, it looks like there's a little bit of a hesitation.

11:58AM 3 Do you work with --

11:58AM 4 A. I would work with other agents on other cases. We had
11:58AM 5 multiple cases going on at the same time.

11:58AM 6 So if I'm assisting somebody on a different gang, I'm
11:58AM 7 usually with another agent who's a case agent on that one.

11:58AM 8 Q. Okay. So your role as a TFO could have you jumping
11:58AM 9 around to a couple different agents?

11:58AM 10 A. Yes.

11:58AM 11 Q. If you had to ballpark it, could you give us a figure of
11:58AM 12 how much you worked with Tom Herbst compared to the others?

11:58AM 13 A. 25 percent, maybe.

11:58AM 14 Q. Okay. Now, were you aware that Agent Herbst had
11:58AM 15 initiated a file regarding Italian Organized Crime?

11:58AM 16 A. Yes.

11:58AM 17 Q. Okay. Did you know that to be sort of shortly after he
11:59AM 18 came back to the office, the Buffalo office of the FBI?

11:59AM 19 A. Yes. Correct.

11:59AM 20 Q. Okay. And it's your understanding he started that file,
11:59AM 21 correct?

11:59AM 22 A. I believe it was, yeah.

11:59AM 23 Q. But that file inherited old information, or I should say
11:59AM 24 information regarding some potential old unsolved homicides,
11:59AM 25 correct?

11:59AM 1 A. Correct.

11:59AM 2 Q. Is it fair to say the name linkage from the that file to
11:59AM 3 the U.S. Attorney's Office was AUSA Tony Bruce?

11:59AM 4 A. No, I would think would be Charlie Wydysh.

11:59AM 5 Q. Okay. Did you have dealings with AUSA Tony Bruce in
11:59AM 6 connection with Tom Herbst's file?

11:59AM 7 A. I did not have much interaction at all with Tony Bruce.

11:59AM 8 Q. Okay. Now, and just to be clear, you're working as a TFO
11:59AM 9 agent in this -- was it something called Squad 4?

11:59AM 10 A. Safe Streets.

11:59AM 11 Q. Okay. I guess I'm just trying to make sure that we
12:00PM 12 understand that Safe Streets Task Force is part of Squad 4?

12:00PM 13 A. Yes.

12:00PM 14 Q. But you're just with the Safe Streets Task Force?

12:00PM 15 A. Correct.

12:00PM 16 Q. And how many agents are just with the Safe Streets Task
12:00PM 17 Force?

12:00PM 18 A. At that time, we had ten agents and maybe half a dozen
12:00PM 19 TFOs.

12:00PM 20 Q. Okay. And it's fair to say that the Safe Streets Task
12:00PM 21 Force at that time is focusing on a lot more things other
12:00PM 22 than just this --

12:00PM 23 A. Correct.

12:00PM 24 Q. -- Italian Organized Crime file?

12:00PM 25 A. Yes.

12:00PM 1 Q. Okay. And even Agent Herbst is focusing on a lot of
12:00PM 2 other things besides just this one file, correct?

12:00PM 3 A. Yes.

12:00PM 4 Q. Okay. Now, I'm going to, when you come over to the FBI,
12:00PM 5 you've got to learn a lot of forms that the FBI uses,
12:00PM 6 correct?

12:00PM 7 A. Correct.

12:00PM 8 Q. And one of them is called a 302; do you recall that one?

12:00PM 9 A. Yes.

12:00PM 10 Q. Fair to say that's called a form for reporting
12:00PM 11 information that may become testimony?

12:00PM 12 A. Um-hum.

12:00PM 13 Q. And the purpose of that form is to document in substance
12:00PM 14 what -- what happened in an interview if there's an
12:00PM 15 expectation that that could later be used as testimony?

12:01PM 16 A. Okay. Yes.

12:01PM 17 Q. That's what I'm asking, is that an accurate
12:01PM 18 representation of what that form does?

12:01PM 19 A. Yes.

12:01PM 20 Q. Okay. Are you familiar with an FD 209 form?

12:01PM 21 A. No.

12:01PM 22 Q. Okay. Anything -- any type of form used to record
12:01PM 23 contact with unofficial informants?

12:01PM 24 A. No.

12:01PM 25 Q. Okay. Are you familiar with an FD 356 form?

12:01PM 1 A. 302 is the main form that we would use.

12:01PM 2 Q. Okay.

12:01PM 3 A. If there's another form, I'd pass it off to the agent.

12:01PM 4 Q. I'm sorry?

12:01PM 5 A. If there was another form that was needed, I would pass
12:01PM 6 it off to the agent who I was working with at that time.

12:01PM 7 Q. Okay. So if there were specific requests for

12:01PM 8 information, for example, you would tell the agent I need
12:01PM 9 this done, can you go do it?

12:01PM 10 A. No, I might assist him, but he would do the paperwork on
12:01PM 11 it.

12:01PM 12 Q. Okay. So really, I just want to make sure we're clear on
12:01PM 13 this, you would do FD 302 forms. But if there was something
12:01PM 14 else, that would get left to the primary federal agents?

12:01PM 15 A. Generally, yes.

12:01PM 16 Q. Okay. All right. So, this Italian Organized Crime
12:02PM 17 investigation, I'm using that term, but really it's an
12:02PM 18 investigation into cold case homicides, correct?

12:02PM 19 A. Yes.

12:02PM 20 Q. All right. That's really ultimately what the Safe
12:02PM 21 Streets Task Force is attempting to build a prosecution
12:02PM 22 about, correct?

12:02PM 23 A. Yes.

12:02PM 24 Q. At the end of the day, they're looking for old murder
12:02PM 25 charges, correct?

12:02PM 1 A. Correct.

12:02PM 2 Q. But yours and Tom Herbst's interest becomes trying to
12:02PM 3 develop some routes to folks who might have information on
12:02PM 4 those old homicides, correct?

12:02PM 5 A. Yes.

12:02PM 6 Q. Essentially, you're looking to find people who might
12:02PM 7 provide information about those old homicides?

12:02PM 8 A. Yes.

12:02PM 9 Q. And in particular, you're looking for folks who are
12:02PM 10 embedded within these potential Italian Organized Crime
12:02PM 11 organizations, who might flip and tell you information,
12:02PM 12 correct?

12:02PM 13 A. Yes.

12:02PM 14 Q. Okay. And one target that was identified was Peter
12:03PM 15 Gerace Jr., correct?

12:03PM 16 A. Yes.

12:03PM 17 Q. And he was identified because, in your office, there was
12:03PM 18 some importance about who he was related to, correct?

12:03PM 19 A. Yes.

12:03PM 20 Q. Now, at the same time, is it fair to say that there were
12:03PM 21 also some other sources developed into Peter Gerace and his
12:03PM 22 dealings at Pharaoh's?

12:03PM 23 A. I'm sure there was, but nothing that I would be pertinent
12:03PM 24 to.

12:03PM 25 Q. Okay. Do you recall any specific individuals giving up

1 information as a result of an Amherst Police Department
2 traffic stop about Pharaoh's?

3 A. I think we talked to a couple of dancers who got arrested
4 for a DWI, but I don't recall what happened to that.

5 Q. Okay. So two dancers from Pharaoh's, correct?

6 A. I believe so.

7 Q. Okay. Do you recall if there was, at the time, any other
8 individuals that you and Mr. Herbst were already working that
9 were inside Pharaoh's?

10 A. I don't recall.

11 Q. Okay. But to your knowledge, there are these two
12 dancers. And they're giving up what you would characterize
13 as viable information, correct?

14 A. As I recall, I don't think we got much information out of
15 them at all.

16 Q. Okay.

17 A. If that's the incident that you're talking about, but I'm
18 not sure.

19 Q. Okay. But there was information to follow up on,
20 correct?

21 A. If there was, we would have followed it up.

22 Q. Okay. Did you conduct any surveillance of either
23 Mr. Gerace or the Pharaoh's Gentlemen's Club in the summer of
24 2009?

25 A. I don't know if I did that or not. I can't recall.

12:04PM 1 Q. Do you recall if it was done generally by the FBI?

12:04PM 2 A. I would assume so, but I don't know.

12:04PM 3 Q. Okay. Well, you never personally worked on anything like

12:05PM 4 that?

12:05PM 5 A. I don't recall that, no.

12:05PM 6 Q. Okay. But ultimately that culminates in a Halloween

12:05PM 7 search in 2009 of Pharaoh's, correct?

12:05PM 8 A. Yes.

12:05PM 9 Q. And you're there at the search?

12:05PM 10 A. I was there.

12:05PM 11 Q. But you did -- you did not participate in the interview

12:05PM 12 of Mr. Gerace, correct?

12:05PM 13 A. I believe I got there late, but I did not, I don't think

12:05PM 14 I even asked him any questions.

12:05PM 15 Q. I'm sorry, can you speak up?

12:05PM 16 A. I got there late, and I don't think I even asked him any

12:05PM 17 questions, or just generic questions at all. I think it was

12:05PM 18 Agent Herbst who was talking to him.

12:05PM 19 Q. Okay. I just want to narrow that down, though. Do you

12:05PM 20 recall actually being part of the interview in any fashion?

12:05PM 21 A. I would have been in the office with him when it was

12:05PM 22 happening.

12:05PM 23 Q. Okay. Do you recall Mr. Gerace being resistant to

12:05PM 24 answering any questions?

12:05PM 25 A. I don't think he gave us any information to be helpful

12:05PM 1 for our investigation, but I don't think he was resistant to
12:05PM 2 it.

12:05PM 3 Q. And at that point in time, is it fair to say there's a
12:05PM 4 lot of police activity going on in Pharaoh's, you know, in
12:05PM 5 the course of the search --

12:05PM 6 A. The other --

12:06PM 7 Q. -- warrant --

12:06PM 8 A. -- people --

12:06PM 9 Q. -- being executed?

12:06PM 10 A. -- there -- the other people there are searching, you
12:06PM 11 know, for --

12:06PM 12 Q. Right.

12:06PM 13 A. -- whatever they're looking for.

12:06PM 14 Q. I mean, people are looking through records, correct?

12:06PM 15 A. Yes.

12:06PM 16 Q. And you testified you were looking through a -- through a
12:06PM 17 Rolodex, right?

12:06PM 18 A. Yes.

12:06PM 19 Q. Obviously, there's people -- there's law enforcement
12:06PM 20 officials securing the scene, correct?

12:06PM 21 A. Yes.

12:06PM 22 Q. There's a lot of things going on when there's a search
12:06PM 23 warrant execution, correct?

12:06PM 24 A. Yes.

12:06PM 25 Q. Okay. It's not exactly a confidential environment for

12:06PM 1 somebody to turn over confidential information; fair to say?

12:06PM 2 A. Yes.

12:06PM 3 Q. Okay. But at that point in time, to your knowledge, when

12:06PM 4 you and Agent Herbst go into that interview discussion, the

12:06PM 5 intention is to start building some sort of rapport to

12:06PM 6 gain --

12:06PM 7 A. Yes.

12:06PM 8 Q. -- a relationship with Mr. Gerace?

12:06PM 9 A. Yes.

12:06PM 10 Q. And you're not gonna flip him in a single conversation

12:06PM 11 there; fair to say?

12:06PM 12 A. Correct.

12:06PM 13 Q. But, you know, plant the seeds, and perhaps continue the

12:06PM 14 conversation down the road, correct?

12:07PM 15 A. Yes.

12:07PM 16 Q. Ultimately with the goal of getting him to give up what

12:07PM 17 you could see as valuable information about individuals who

12:07PM 18 could help you solve the cold case crimes, correct?

12:07PM 19 A. Yes.

12:07PM 20 Q. I mean, so, the main focus here is not necessarily on

12:07PM 21 Mr. Gerace's connection to narcotics, correct?

12:07PM 22 A. Yes.

12:07PM 23 Q. The main focus is how can we build some trust so we can

12:07PM 24 get some more information out of him later, correct?

12:07PM 25 A. Correct.

12:07PM 1 Q. Okay. A couple days later, do you recall whether you had
12:07PM 2 a meeting with a federal probation officer and your partner
12:07PM 3 at the United States Attorney's Office?

12:07PM 4 A. I don't recall.

12:07PM 5 Q. Okay. Do you recall ever having any meetings with the
12:07PM 6 federal prosecutor associated with this Gerace activity?

12:07PM 7 A. With that search? I don't believe I did.

12:07PM 8 Q. Okay.

12:07PM 9 A. I may have, but I don't recall it.

12:07PM 10 Q. Okay. Now, you told us that you did not attend a meeting
12:08PM 11 with Agent Herbst and Mr. Bongiovanni and Mr. Gerace,
12:08PM 12 correct?

12:08PM 13 A. Correct.

12:08PM 14 Q. Okay. Around, I mean, as you sit here today, you're
12:08PM 15 aware that a meeting did occur, correct?

12:08PM 16 A. I was told, yes.

12:08PM 17 Q. Okay. And it's true that in fact you weren't told until
12:08PM 18 about a decade later after the investigation went public,
12:08PM 19 correct?

12:08PM 20 A. Correct.

12:08PM 21 Q. Okay. But between -- so, the first time you really heard
12:08PM 22 about that is about several years ago, correct?

12:08PM 23 A. I don't know when it would have been --

12:08PM 24 Q. Okay.

12:08PM 25 A. -- to tell you the truth.

12:08PM 1 Q. Closer in time to now than back then, correct?

12:08PM 2 A. Yes.

12:08PM 3 Q. Okay. And following the search of Pharaoh's, Agent
12:08PM 4 Herbst never told you anything about abandoning the Gerace
12:08PM 5 avenue to the cold cases did he?

12:08PM 6 A. I don't recall if he did.

12:08PM 7 Q. So you just kind of moved on to other things; fair to
12:08PM 8 say?

12:08PM 9 A. Yes.

12:08PM 10 Q. And that happens in investigations, correct? Some
12:08PM 11 avenues just shut down, and you go in other directions,
12:08PM 12 correct?

12:08PM 13 A. Yes.

12:08PM 14 Q. I think we covered this, but there's also a lot of other
12:09PM 15 things going on with the Safe Streets Task Force at that
12:09PM 16 time, correct?

12:09PM 17 A. Yes.

12:09PM 18 Q. And to your recollection, was the IOC, the Italian
12:09PM 19 Organized Crime cold case homicide file ever really revived
12:09PM 20 at any point in time?

12:09PM 21 A. We'd still work on it, but it -- it went nowhere. We
12:09PM 22 didn't get any information to --

12:09PM 23 Q. Okay.

12:09PM 24 A. -- pursue it further.

12:09PM 25 Q. Okay. And to your knowledge, as you sit here today, you

12:09PM 1 have nothing to suggest that that had anything to do with
12:09PM 2 Mr. Gerace, correct?

12:09PM 3 A. Correct.

12:09PM 4 Q. I mean, you, Agent Herbst, and other individuals in the
12:09PM 5 Safe Streets Task Force, were out there pursuing whatever
12:09PM 6 leads you could, correct?

12:09PM 7 A. Yes.

12:09PM 8 Q. I mean, you still had the contact information at this
12:09PM 9 time for the two dancers at Pharaoh's, correct?

12:09PM 10 A. I believe we would have, yes.

12:09PM 11 Q. Okay. And ultimately, I think what you're telling us
12:09PM 12 here is they were viable, but it didn't really pan out,
12:09PM 13 correct?

12:09PM 14 A. As far as I can recall, yes.

12:09PM 15 Q. Okay.

12:09PM 16 A. I don't recall it going anywhere.

12:09PM 17 Q. Do you -- and ultimately, other sources of information
12:10PM 18 don't pan out into enough of an investigation to form a
12:10PM 19 prosecution, correct?

12:10PM 20 A. Correct.

12:10PM 21 Q. Fair to say in colloquial terms, this is sort of like a
12:10PM 22 back-burner project?

12:10PM 23 A. I would say that, yes.

12:10PM 24 Q. Okay. It's one that's really because it's so old
12:10PM 25 heavily -- strike that.

12:10PM 1 Because it's so old, is it fair to say that it's an
12:10PM 2 investigation that really needs informants in some fashion,
12:10PM 3 correct?

12:10PM 4 A. Yes.

12:10PM 5 Q. Okay. And you really need, in order to solve those cold
12:10PM 6 case crimes, individuals who were there back in the '70s or
12:10PM 7 '80s or whatever was happening there, correct?

12:10PM 8 A. Yes.

12:10PM 9 Q. And to your knowledge, do you recall trying to work some
12:10PM 10 other sources to get folks like that?

12:10PM 11 A. We talked to many individuals.

12:10PM 12 Q. Okay. And ultimately, it just doesn't go anywhere?

12:10PM 13 A. Correct.

12:10PM 14 Q. All right. Now, you never saw a FBI 302 form about any
12:10PM 15 meeting between Agent Herbst and Mr. Gerace, correct?

12:11PM 16 A. I may have. I don't recall.

12:11PM 17 Q. But as you sit here today --

12:11PM 18 A. I don't recall.

12:11PM 19 Q. -- you don't recall ever seeing one?

12:11PM 20 A. No.

12:11PM 21 Q. And I think you told us you didn't hear about it for many
12:11PM 22 years later, correct?

12:11PM 23 A. Yes.

12:11PM 24 Q. Okay. And you don't recall any other chatter about the
12:11PM 25 office about any sort of meeting occurred, correct?

12:11PM 1 A. Not that I recall, no. I wouldn't think it was anything.
12:11PM 2 Q. All right. So, let's fast forward to 2013. At this time
12:11PM 3 you're still an Amherst police detective, correct?
12:11PM 4 A. Yep.
12:11PM 5 Q. And you're still on the FBI Safe Streets Task Force,
12:11PM 6 correct?
12:11PM 7 A. Yes.
12:11PM 8 Q. And you get linked up with an individual named R.K.,
12:11PM 9 correct?
12:11PM 10 A. Yes.
12:11PM 11 Q. Okay. Now, R.K. comes into the Amherst Police Department
12:11PM 12 because -- not because of you, correct? Is that fair to say?
12:11PM 13 A. It would have been for me.
12:11PM 14 Q. Well, let me ask it this way. You didn't make an arrest
12:11PM 15 of R.K., did you?
12:11PM 16 A. No, he was already arrested, I believe.
12:12PM 17 Q. Okay. And to your knowledge, maybe he gave up some
12:12PM 18 information or was intending to speak with somebody?
12:12PM 19 A. That's why he talked, wanted to talk to somebody from the
12:12PM 20 Feds.
12:12PM 21 Q. Okay. But to your knowledge, somebody from Amherst
12:12PM 22 police had already spoken to him?
12:12PM 23 A. I don't know if they did or not.
12:12PM 24 Q. Okay. But eventually, there comes a point in time where
12:12PM 25 you talked to R.K.?

12:12PM 1 A. Yes.

12:12PM 2 Q. Okay. On or about April 8th, 2013?

12:12PM 3 A. Yes.

12:12PM 4 Q. Okay. And, you know, I just want to walk through how we
12:12PM 5 get there.

12:12PM 6 Are you assigned a task, is somebody telling you go out
12:12PM 7 and meet with this guy?

12:12PM 8 A. It would have been Agent Jason Beck. And I was tasked
12:12PM 9 from our office to go along with Jason Beck to talk to an
12:12PM 10 individual who might have information.

12:12PM 11 Q. Okay. So, as you sit here today, is what you're telling
12:12PM 12 us that sort of Officer Beck was sort of the primary contact
12:12PM 13 with Mr. R.K.?

12:12PM 14 A. It could have been, yes.

12:12PM 15 Q. Okay.

12:13PM 16 A. It wasn't me. I was just tasked to go along with Jason
12:13PM 17 Beck.

12:13PM 18 Q. Okay. So you start your interactions with Mr. R.K. in
12:13PM 19 sort of a support role, correct?

12:13PM 20 A. Yes.

12:13PM 21 Q. Okay. And Officer Beck is not associated with the Safe
12:13PM 22 Streets Task Force, correct?

12:13PM 23 A. I don't think Agent Beck was on our squad, he might have
12:13PM 24 been on the intel squad or something, but he was an FBI agent
12:13PM 25 at the time.

12:13PM 1 Q. He was an FBI agent?

12:13PM 2 A. I believe he was, yes.

12:13PM 3 Q. Right. But just so we're really clear on this, the
12:13PM 4 information from Mr. R.K., his initial appearance, how he
12:13PM 5 sort of bubbles up in the system, comes from Amherst,
12:13PM 6 correct?

12:13PM 7 A. I don't know where he came from. We were just -- I was
12:13PM 8 tasked with the information to go talk to an individual who
12:13PM 9 might have information on something that can help us out.

12:13PM 10 Q. Okay. So, irrespective of whether it's in your role as
12:13PM 11 an FBI TFO, or as Amherst, you meet with him though, correct?

12:13PM 12 A. I did.

12:13PM 13 Q. Is it your recollection that it was sort of difficult to
12:13PM 14 get ahold of him?

12:13PM 15 A. Not the first time.

12:13PM 16 Q. Okay. So you meet with him relatively soon after you
12:14PM 17 learn there's gonna be a meeting?

12:14PM 18 A. I would have been tasked probably that hour, I would say,
12:14PM 19 we're going to meet with this individual.

12:14PM 20 Q. Okay.

12:14PM 21 A. I don't know if that's how it worked, but --

12:14PM 22 Q. Do you recall that generally being in the Military Avenue
12:14PM 23 of Kenmore?

12:14PM 24 A. Yes.

12:14PM 25 Q. Okay. And then you attempt to talk with him about a week

1 later in the vicinity of Kenmore and Colvin Avenues; is that
2 fair to say?

3 A. Yes.

4 Q. But that meeting never panned out, correct?

5 A. He never showed up.

6 Q. He never showed up. Now, do you understand that to be
7 generally around where his mother lives?

8 A. Yes.

9 Q. Okay. But, in sum and substance, Mr. R.K. doesn't show
10 for the meeting?

11 A. It's not uncommon, yes.

12 Q. Okay. But I'm just being clear, he doesn't show that
13 time?

14 A. Right.

15 Q. Okay. After you had already had one meeting with him,
16 correct?

17 A. Yes.

18 Q. Now, you make a -- I think you told us you pass
19 information both back to your boss at Amherst, that's
20 Lieutenant JoAnn DiNoto, correct?

21 A. Correct.

22 Q. Okay. And what would be the purpose of giving it back to
23 Amherst?

24 A. Because the two individuals that information was given to
25 resided in our town.

12:15PM 1 Q. Okay. But you weren't handing the case back off to
12:15PM 2 Amherst, correct?

12:15PM 3 A. No.

12:15PM 4 Q. Okay.

12:15PM 5 A. I just gave them the information.

12:15PM 6 Q. Because you also handed the information off to the FBI
12:15PM 7 with the Safe Streets Task Force, correct?

12:15PM 8 A. I would have brought it back to our intel guy and gave it
12:15PM 9 to him, too, yes.

12:15PM 10 Q. And then third, you decide -- you made a decision to take
12:15PM 11 the information over to DEA, correct?

12:15PM 12 A. I did not make that decision.

12:15PM 13 Q. But that is ultimately what --

12:15PM 14 A. Correct.

12:15PM 15 Q. -- happens here, correct?

12:15PM 16 To your recollection do you know who make that decision?

12:15PM 17 A. It could have been Amherst, if they put that name in and
12:15PM 18 it came up with a SafetyNet through the DEA, or it could have
12:16PM 19 been the FBI, I do not know.

12:16PM 20 Q. Okay. Well, let me ask it this way. Were you directed
12:16PM 21 to take the information to the DEA?

12:16PM 22 A. I'm directed to turn over the informant to the DEA.

12:16PM 23 Q. Okay. But you don't know who directed you to do that?

12:16PM 24 A. No.

12:16PM 25 Q. And you don't know whether that was at the DEA's request,

12:16PM 1 correct?

12:16PM 2 A. Correct.

12:16PM 3 Q. Or you don't know if that was Amherst Police Department
12:16PM 4 saying you turn him over to DEA, correct?

12:16PM 5 A. Correct.

12:16PM 6 Q. But you received the order to do that, correct?

12:16PM 7 A. We couldn't work with him for whatever reason, and I
12:16PM 8 don't know what that reason was.

12:16PM 9 Q. I'm sorry, can you speak up?

12:16PM 10 A. We could not work with the informant, for whatever
12:16PM 11 reason. I do not know what that reason was.

12:16PM 12 Q. So I just want to explore that. You're saying you cannot
12:16PM 13 work with a DEA informant?

12:16PM 14 A. As an informant, my assumption was that we would have
12:16PM 15 liked to have worked with him, but he might have been working
12:16PM 16 with somebody else prior to that. That's my assumption.

12:16PM 17 I did not know if that was true or not. I was just
12:16PM 18 instructed to turn him over to the DEA.

12:16PM 19 I just assumed that they had an ongoing investigation
12:16PM 20 regarding one of the people that the informant talked about.

12:16PM 21 That's all I know.

12:17PM 22 Q. But you had no records about what any investigation was
12:17PM 23 or anything like that --

12:17PM 24 A. No.

12:17PM 25 Q. -- correct?

12:17PM

1 A. Nope.

12:17PM

2 Q. All right. So, that turnover happens in the vicinity of
3 Richmond and Forest in the City of Buffalo, correct?

12:17PM

4 A. Correct.

12:17PM

5 Q. Over near the city -- over near the Psych Center?

12:17PM

6 A. Yes.

12:17PM

7 Q. And that's on or about the 25th of April of 2013,
8 correct?

12:17PM

9 A. Okay. If that's written there, it's the day. I don't
10 know what the date is.

12:17PM

11 Q. Okay.

12:17PM

12 A. It was a couple weeks after we initially talked to him.

12:17PM

13 Q. Okay. A couple weeks after you initially talked with
14 him. So let's do the timeline. You meet with him on the
15 8th, correct?

12:17PM

16 A. Yep.

12:17PM

17 Q. He misses an appointment on the 16th, correct?

12:17PM

18 A. Correct. Yep.

12:17PM

19 Q. Do you recall on or about the 24th, the day before you
20 turn him over, you did get in touch with him?

12:17PM

21 A. Yes.

12:17PM

22 Q. Okay. So, you essentially had two meetings, one that was
23 blown off, correct?

12:17PM

24 A. Yes.

12:17PM

25 Q. But then you do the turnover on the 25th; fair to say?

12:17PM 1 A. Yes.

12:17PM 2 Q. Okay. Now, you -- so you had two interactions with
12:18PM 3 Mr. R.K. prior to turning him over to the DEA, correct?

12:18PM 4 A. Yes.

12:18PM 5 Q. So you had a full observation to observe him when you're
12:18PM 6 talking to him, correct?

12:18PM 7 A. Yes.

12:18PM 8 Q. I mean, you had conversations, and there was an exchange
12:18PM 9 of information, correct?

12:18PM 10 A. Yes.

12:18PM 11 Q. It was face to face, correct?

12:18PM 12 A. Yes.

12:18PM 13 Q. And you, in your long career as a patrol officer, as a
12:18PM 14 detective, as a Safe Streets Task Force TFO, you've dealt
12:18PM 15 with informants before, correct?

12:18PM 16 A. Yes.

12:18PM 17 Q. You've had the opportunity to see folks who may or may
12:18PM 18 not be under the influence of narcotics, correct?

12:18PM 19 A. Yes.

12:18PM 20 Q. Okay. From your observations of Mr. R.K., did it appear
12:18PM 21 he had any narcotics issues himself going on in the
12:18PM 22 background?

12:18PM 23 A. I don't recall.

12:18PM 24 Q. Okay. Do you recall, based on your observations and
12:18PM 25 based on at least one no show, were there any issues with him

12:19PM 1 being transient at the time?

12:19PM 2 A. I don't recall.

12:19PM 3 Q. Okay. Do you recall, other than him missing a meeting,
12:19PM 4 him being somewhat difficult to get ahold of?

12:19PM 5 A. I don't recall.

12:19PM 6 Q. Okay.

12:19PM 7 **MR. MacKAY:** Judge, if I could just have a moment?

12:19PM 8 **THE COURT:** Sure.

12:20PM 9 **MR. MacKAY:** Thank you for that moment, Your Honor.

12:20PM 10 **BY MR. MacKAY:**

12:20PM 11 Q. Mr. Cottrell, some of the information that Mr. R.K.
12:20PM 12 provided to you concerned one individual named T.S., correct?

12:20PM 13 A. T.S.?

12:20PM 14 Q. Yes.

12:20PM 15 A. Yes.

12:20PM 16 Q. And another was an individual named Ron Serio, correct?

12:20PM 17 A. Yes.

12:20PM 18 Q. Now T.S.'s been known by the Amherst Police Department
12:20PM 19 going back to 2005?

12:20PM 20 A. He was a frequent flyer for Amherst. He's a person who
12:20PM 21 would get a lot of contacts with the police department, so we
12:20PM 22 were aware of him.

12:20PM 23 Q. Okay. Fair to say those were -- a lot of them were drug
12:20PM 24 related?

12:20PM 25 A. Some of them were. Most of them were non-drug related,

12:20PM 1 yes.

12:20PM 2 Q. Okay. And not just drug use, but potential drug
12:20PM 3 distribution; fair to say?

12:20PM 4 A. Yes.

12:20PM 5 Q. Now Ron Serio, you had not had any dealings with him
12:21PM 6 before, correct?

12:21PM 7 A. I wasn't aware of him.

12:21PM 8 Q. Were you aware as to whether there was any
12:21PM 9 connection -- strike that.

12:21PM 10 You knew he lived on Lebrun in Amherst?

12:21PM 11 A. I did not. I was told that afterwards that he lived
12:21PM 12 in -- on Lebrun.

12:21PM 13 Q. Okay. Who told you that?

12:21PM 14 A. It might have been R.K., it might have been just us
12:21PM 15 following up on the information. I'm not sure.

12:21PM 16 Q. Okay. Are you -- were you aware around that point in
12:21PM 17 time whether there was any connection between the Lebrun
12:21PM 18 house and your boss, Lieutenant JoAnn DiNoto?

12:21PM 19 A. I was not --

12:21PM 20 Q. Okay.

12:21PM 21 A. -- aware.

12:21PM 22 Q. All right. And just lastly, I want to go to this
12:21PM 23 April 25th, 2013 handoff meeting.

12:21PM 24 I just want to walk through what actually happens in a
12:21PM 25 handoff meeting, because this does not occur inside an

12:21PM

1 office, correct?

12:21PM

2 A. Correct.

12:21PM

3 Q. I mean, we're on the corner here of Richmond and Forest
4 in the City of Buffalo outside the Psych Center, correct?

12:21PM

5 A. Correct.

12:21PM

6 Q. This happens in a vehicle?

12:21PM

7 A. I don't recall. I don't know. I assume I met the
8 informant in that area.

12:22PM

9 Q. Okay.

12:22PM

10 A. 'Cuz he was familiar with me. And then I would have
11 turned him over to the DEA. But I don't recall that at all.

12:22PM

12 Q. Okay. So, I mean, a turnover involves what?

12:22PM

13 A. Introducing him to Agent Bongiovanni, and said this guy's
14 gonna be working with you, take your information, and follow
15 it up.

12:22PM

16 Q. Okay. No discussions about what's gonna be done with
17 DEA --

12:22PM

18 A. I don't --

12:22PM

19 Q. -- DEA, correct?

12:22PM

20 A. -- remember that. I don't recall that. I don't recall
21 anything about that meeting.

12:22PM

22 Q. Okay. But you do recall there was a meeting?

12:22PM

23 A. I had to look in my notes to actually make sure I turned
24 it over to. And in my notes was to Joe Bongiovanni with R.K.

12:22PM

25 That's all I can remember.

12:22PM 1 **MR. MacKAY:** I have no further questions, Your Honor.

12:22PM 2 **THE COURT:** Any redirect?

12:22PM 3 **MR. COOPER:** Just briefly, Judge.

12:22PM 4

12:22PM 5 **REDIRECT EXAMINATION BY MR. COOPER:**

12:23PM 6 Q. Detective Cottrell, you were just asked some questions

12:23PM 7 about the meeting that you had turning over R.K. to

12:23PM 8 Bongiovanni and DEA; do you remember those questions?

12:23PM 9 A. Yes.

12:23PM 10 Q. Okay. And I think you testified that you don't have a

12:23PM 11 specific memory of that, but that you reviewed some notes

12:23PM 12 that refreshed your memory; is that correct?

12:23PM 13 A. That's correct.

12:23PM 14 Q. While you were working as a DEA or FBI task force

12:23PM 15 officer, did you keep a notebook?

12:23PM 16 A. I did.

12:23PM 17 Q. Did you keep a notebook where you kind of

12:23PM 18 contemporaneously wrote down the different activities that

12:23PM 19 you were doing?

12:23PM 20 A. I did.

12:23PM 21 Q. Did that help you remember things that you did back in

12:23PM 22 2013?

12:23PM 23 A. I wouldn't have remembered it or recalled it if I didn't

12:23PM 24 refer to those notes.

12:23PM 25 Q. Okay. You were asked some questions on cross-examination

1 about who made the decision to turn R.K. over to the DEA; is
2 that correct?

3 A. Correct. Yes.

4 Q. As you sit here today, 2024, do you remember who made the
5 decision to turn R.K. over?

6 A. I did not then, and I do not know now who turned him
7 over.

8 Q. Before you testified, did you turn over certain portions
9 of your handwritten notes from back in 2013 to the parties in
10 this case?

11 A. To -- to who?

12 Q. To the government.

13 A. Yes.

14 Q. Okay. And would looking at those entries that you wrote
15 refresh your memory about some of the specific details of
16 turning over the source to Bongiovanni?

17 A. Yes.

18 Q. Okay.

19 **MR. COOPER:** Judge, I'm holding what's marked for
20 identification as 3504B as in bravo. I'm gonna show it to
21 just the witness.

22 Ms. Champoux, we pull up 3504B as in boy,
23 specifically page 2. And can you zoom in, Ms. Champoux, on
24 the top highlighted portion?

25

12:24PM 1 **BY MR. COOPER:**

12:24PM 2 Q. I don't want you to read this out loud, I just want you
12:24PM 3 to look at it, okay, sir?

12:24PM 4 A. Okay.

12:24PM 5 Q. Can you read that chicken scratch?

12:25PM 6 A. I can.

12:25PM 7 Q. Okay.

12:25PM 8 A. That's me.

12:25PM 9 Q. I want you to read the highlighted portion. To yourself.

12:25PM 10 A. Okay.

12:25PM 11 Q. Sorry. Have you had an opportunity to read that?

12:25PM 12 A. I have.

12:25PM 13 Q. Does that refresh your memory about who informed you to
12:25PM 14 turn R.K. over to the DEA?

12:25PM 15 A. It would have been my boss, Jimmy Jancewicz, who was the
12:25PM 16 boss of the Safe Streets Task Force.

12:25PM 17 **MR. COOPER:** Okay. You can take that portion down,
12:25PM 18 just leave the exhibit up for now. Thank you.

12:25PM 19 And, Ms. Champoux, can you zoom in, I think I'm on
12:25PM 20 page 3 of the exhibit, can you zoom in on the entry with the
12:25PM 21 two highlighted portions, that whole entry?

12:25PM 22 **BY MR. COOPER:**

12:25PM 23 Q. Detective Cottrell, will you read the two portions to
12:25PM 24 yourself and look up at me when you're finished.

12:26PM 25 A. Okay.

12:26PM 1 Q. You were asked some questions on cross-examination about
12:26PM 2 what date you turned over R.K. to the DEA; do you remember
12:26PM 3 those questions?

12:26PM 4 A. I do.

12:26PM 5 Q. Did looking at 3504B refresh your memory about the date
12:26PM 6 that you turned R.K. over to the DEA?

12:26PM 7 A. I have down written Thursday, April 25th.

12:26PM 8 Q. Okay. And would that have been 2013?

12:26PM 9 A. Yes.

12:26PM 10 Q. Okay. And after you turned R.K. over to the DEA, did you
12:26PM 11 leave that meeting with an understanding about what R.K.'s
12:26PM 12 status would be with the DEA?

12:26PM 13 A. I would believe he would be an informant working for the
12:26PM 14 DEA under Agent Bongiovanni.

12:26PM 15 **MR. COOPER:** Okay. I have no further questions,
12:26PM 16 Judge.

12:26PM 17 **MR. MacKAY:** Very briefly, Your Honor.

12:26PM 18

12:26PM 19 **RECROSS-EXAMINATION BY MR. MacKAY:**

12:26PM 20 Q. So Mr. Cottrell, you had a chance to refresh your
12:26PM 21 recollection with your notes. So to be clear, it's Jimmy
12:26PM 22 Jancewicz who tells you turn R.K. over to the DEA, correct?

12:27PM 23 A. Yes.

12:27PM 24 Q. And then your impression when you turned R.K. over to DEA
12:27PM 25 was that he would become a source, but wasn't currently a

1 source; is that fair to say?

12:27PM 2 A. Yes.

12:27PM 3 **MR. MacKAY:** Okay. Nothing further, Your Honor.

12:27PM 4 Thank you.

12:27PM 5 **MR. COOPER:** Nothing further, Judge. Thank you.

12:27PM 6 **THE COURT:** Okay. You can step down, sir, thank you.

12:27PM 7 (Witness excused at 12:27 p.m.)

12:27PM 8 (Excerpt concluded at 12:27 p.m.)

12:27PM 9 * * * * *

10

11 **CERTIFICATE OF REPORTER**

12

13 In accordance with 28, U.S.C., 753(b), I
14 certify that these original notes are a true and correct
15 record of proceedings in the United States District Court for
16 the Western District of New York on February 20, 2024.

17

18

s/ Ann M. Sawyer

19 Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

20 U.S.D.C., W.D.N.Y.

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1
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3 **EXCERPT - EXAMINATION OF TASK FORCE OFFICER ROBERT COTTRELL**

4 **FEBRUARY 20, 2024**

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